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The Tulving Company, Inc.

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION

In re:

THE TULVING COMPANY, INC., a California
corporation,

Debtor.

Case No. 8:14-bk-11492-ES

Chapter 7

**NOTICE OF MODIFICATION OF
BIDDING PROCEDURES RELATING TO
CHAPTER 7 TRUSTEE'S PROPOSED
SALE OF CERTAIN ASSETS OF THE
DEBTOR'S ESTATE**

**TO THE HONORABLE ERITHE SMITH, UNITED STATES BANKRUPTCY JUDGE AND
ALL PARTIES INTEREST:**

PLEASE TAKE NOTICE that on May 11, 2018, Weneta M.A. Kosmala, chapter 7 trustee ("Trustee") of the bankruptcy estate ("Estate") of the above-captioned debtor ("Debtor"), filed her motion [Doc. 743] ("Motion")¹ pursuant to 11 U.S.C. § 363(b), (f), and (m), Federal Rule of Bankruptcy Procedure 6004, and Local Bankruptcy Rule 6004-1(c), for entry of an order approving the sale of the Estate's right, title, and interest in and to the remaining property of the Estate, consisting of known and unknown assets, rights to payment, or claims, which have not been previously sold, assigned, or transferred (collectively, "Remnant Assets"), free and clear of liens, claims, interests, and encumbrances, pursuant to that certain Purchase Agreement by and between the Trustee and Oak Point Partners, LLC ("Purchase Agreement"), a copy of which is attached as Exhibit A to the Motion.

¹ All capitalized undefined terms used herein shall have the meanings ascribed to them in the Motion.

1 **PLEASE TAKE FURTHER NOTICE** that at the time of the hearing on the Motion, the
2 Court requested that the Trustee modify the Bidding Procedures set forth in the Motion as follows
3 (“Modified Bidding Procedures”):

- 4 a. Each interested bidder who wants to participate in the overbid process must present to the
Trustee an initial overbid in writing **by no later than 4:00 p.m. (PDT) on June 22,**
5 **2018;**
- 6 b. Each initial overbid must be accompanied by a cashier’s check made to the order of the
Trustee in the amount of such initial overbid;
- 7 c. Each initial overbid must be at least \$9,375.00;
- 8 d. Any subsequent overbids must be in additional increments of \$1,875.00;
- 9 e. The winning bidder must purchase the Remnant Assets under the same terms and
conditions set forth in the Purchase Agreement, other than the purchase price; and
- 10 f. In the event of an overbid that meets the foregoing conditions, the Trustee will conduct
an auction at 9:00 a.m. (PDT) on June 25, 2018 at PACHULSKI STANG ZIEHL &
11 JONES LLP, 10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067, and will
request that the Court approve the winning bidder at the auction as the purchaser of the
12 Remnant Assets at a subsequently scheduled hearing.

13 **PLEASE TAKE FURTHER NOTICE** that the Court may approve the sale of the Remnant
14 Assets to Oak Point pursuant to the terms of the Purchase Agreement without need for further
15 hearing if the Trustee does not receive any qualified bids pursuant to the Modified Bidding
16 Procedures.

17 Date: June 8, 2018

Respectfully submitted,

18 By: /s/ Linda F. Cantor

19 Linda F. Cantor
20 Counsel for Weneta M.A. Kosmala,
21 Chapter 7 Trustee
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **10100 Santa Monica Blvd., 13th Floor, Los Angeles, CA 90067**

A true and correct copy of the foregoing document entitled **NOTICE OF MODIFICATION OF BIDDING PROCEDURES RELATING TO CHAPTER 7 TRUSTEE'S PROPOSED SALE OF CERTAIN ASSETS OF THE DEBTOR'S ESTATE** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **June 8, 2018**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **June 8, 2018**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Via Federal Express
The Honorable Erithe A. Smith
United States Bankruptcy Court
Central District of California
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5040
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

June 8, 2018

Date

Janice G. Washington

Printed Name

/s/Janice G. Washington

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

1. **TO BE SERVED BY THE COURT VIA NOTICE
OF ELECTRONIC FILING (NEF):**

Michael R Adele on behalf of Defendant
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Michael R Adele on behalf of Defendant
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Richard C Spencer on behalf of Interested
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